

REMARKS

Reconsideration of this application is respectfully requested. The specification has been amended to provide the priority information for this application. Claims 20, 22, 24, 26, 28, 30, 32, 34, and 36 have been canceled without prejudice. Claim 21 has been rewritten in independent form. Claim 23 has been amended to recite that the escitalopram or pharmaceutically acceptable salt thereof is administered daily to obtain a significant improvement in the patient after one week as measured by the CGI improvement and severity subscale. Support for this amendment is found at, for example, page 7, lines 5-7, of the specification. Claims 21, 23, 25, 27, 29, 31, 33, 35, and 37 are pending and at issue.

In the Office Action, the Examiner notes that a certified copy of the priority document, Danish Application No. PA 2001 00684 filed May 1, 2001, has not been submitted. A certified copy of the priority document was subsequently submitted on September 12, 2005. The Application Data Sheet filed on August 20, 2003 for this application references the Danish priority application. Furthermore, the specification has been amended to refer to the Danish priority application. Accordingly, applicants respectfully submit that priority has been perfected and request that this application be examined accordingly.

Indefiniteness Rejection

Claims 22, 23, 28, 29, 34, and 35 have been rejected under 35 U.S.C. §112, second paragraph, as indefinite due to the phrase “to obtain an effect.” The Examiner contends that it is not clear as to what “effect” is to be obtained, nor what change or how much of a change is considered to be “an effect” in the patient.

While applicants respectfully disagree, in order to expedite prosecution, claim 23 has been amended to recite the effect to be obtained as well as what change and how much of a change is needed in the patient. In particular, the escitalopram is administered daily to obtain a significant

improvement as measured by the CGI improvement and severity subscale after one week. Applicants respectfully submit that these claims are definite and request withdrawal of this rejection.

Obviousness-type Double Patenting Rejections

Claims 20, 22, 24-28, 30-34, 36 and 37 have been provisionally rejected for obviousness-type double patenting over claims 40-46 of co-pending Application No. 10/468,685. Claims 21, 23, 29 and 35 have also been provisionally rejected for obviousness-type double patenting over claims 40-46 of Application No. 10/468,685 in view of Gorman JM, et al. ("Efficacy comparison of escitalopram and citalopram in the treatment of major depressive disorder: pooled analysis of placebo-controlled trials," 2002 April *CNS Spectr.* 7(4 Suppl 2): 40-44) (hereinafter referred to as "Gorman").

In order to expedite prosecution of this application, submitted herewith is a terminal disclaimer over U.S. Patent Application No. 10/468,685. Accordingly, applicants respectfully request withdrawal of these rejections.

Claims 20, 22, 24-28, 30-34, 36 and 37 have been provisionally rejected for obviousness-type double patenting over claims 20-40 of co-pending Application No. 10/644,579. Claims 21, 23, 29 and 35 have also been provisionally rejected for obviousness-type double patenting over claims 20-40 of Application No. 10/644,579 in view of Gorman.

In order to expedite prosecution of this application, submitted herewith is a terminal disclaimer over U.S. Patent Application No. 10/644,579. Accordingly, applicants respectfully request withdrawal of these rejections.

Anticipation Rejections

Claims 20-25 have been rejected under 35 U.S.C. §102(b) as anticipated by Gorman.

Applicants respectfully traverse this rejection and request reconsideration.

Gorman is not prior art to the present application. Gorman was published in April 2002. Claims 20-25 of the present application are entitled to the May 1, 2001 filing date of the Danish priority application, which is 11 months earlier than Gorman's publication date. See, for example, page 3, lines 1-3, page 4, line 6, page 5, lines 19-21, page 6, lines 15-17 of the Danish priority document.

Accordingly, applicants respectfully request withdrawal of this rejection.

Claims 20 and 24 have been rejected as anticipated by Boegesoe et al. (U.S. Patent No. 4,943,590).

In order to expedite prosecution of this application, claims 20 and 24 have been canceled without prejudice. Therefore, this rejection is moot.

Obviousness Rejections

Claims 20, 24, 26, 28, 30, 32, 34 and 36 have been rejected under 35 U.S.C. §103(a) as obvious over Boegesoe in view of Bilski et al. (US Patent No. 4,764,361).

Claims 20, 22, 24, 26, 28, 30, 32, 34 and 36 have been canceled without prejudice. Accordingly, this rejection is moot.

Claims 20-25, 27, 29, 31, 33, 35 and 37 have been rejected under 35 U.S.C. §103(a) as obvious over Gorman in view of Bilski.

Applicants respectfully traverse this rejection and request reconsideration.

As discussed above, Gorman is not prior art to the present application. Consequently, a *prima facie* case of obviousness has not been established. Accordingly, applicants respectfully request withdrawal of this rejection.

In view of the above amendments and remarks, applicants believe the pending application is in condition for allowance.

Dated: January 27, 2006

Respectfully submitted,

By 

Jay P. Lessler

Registration No.: 41,151

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant